

In re) Fair Hearing No. 10,286
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Appeal of)

The petitioner appeals the Department of Social Welfare's decision to terminate her Food Stamp benefits due to excess resources.

1. The petitioner is a Food Stamp recipient who lives with her two small children. Over two months ago, the petitioner allowed J.B., the father of her two children, to move into her home. Although he receives a substantial Social Security disability payment each month, he does not give the petitioner any money for rent or food. All of his money, the petitioner claims, is spent on alcohol and gambling.

2. On January 14, 1990, the petitioner came in for a Food Stamp review. During that interview, she reported that J.B. was living in her household, was getting disability benefits and that he owned a 1989 Ford F-150 pick-up truck. That pick-up truck is used only for J.B.'s personal transportation around town.¹

3. The Food Stamp worker who handled the petitioner's review, established a value of \$6,650.00 for the Ford pick-up truck through looking it up in the latest edition of the

National Auto Dealer's Association's "Blue Book". After deducting \$4,500.00, which represents the allowable maximum value of a car for personal use, the worker determined that the petitioner's household had resources of \$2,150.00, which is \$150.00 more than the resource maximum.

4. On February 7, 1991, the worker sent the petitioner a notice advising her of the above calculations and the resulting \$150.00 in excess resources. She was also told "If you think the value is less, have it appraised by a dealer". The notice told the petitioner that based on the excess resources, her Food Stamp grant of \$178.00 would be closed on February 28, 1991.

5. The petitioner appealed the decision but was not able to get an appraisal because she did not think J.B. would co-operate. She was offered a continuance to get an appraisal but she declined it saying that it was no use, J.B. would not co-operate in establishing a different value.

ORDER

The Department's decision is reversed.

REASONS

Food Stamp regulations require that "resources" of all household members be used in determining household eligibility, and specifically include in the definition of resources "licensed and unlicensed vehicles". F.S.M. § 283.8(c)(2). However, the regulations provide for the

exemption of all or part of the value of vehicles used in certain circumstances:

h. Handling Of Licensed Vehicles

The value of licensed vehicles shall be excluded or counted as a resource as follows:

. . . .

- v. necessary to transport a physically disabled household member (or ineligible alien or disqualified person whose resources are being considered available to the household) regardless of the purpose of such transportation (limited to one vehicle per physically disabled household member). A vehicle shall be considered necessary for the transportation of a physically disabled household member if the vehicle is specially equipped to meet the specific needs of the disabled person or if the vehicle is a special type of vehicle that makes it possible to transport the disabled person. The vehicle need not have special equipment or be used primarily by or for the transportation of the physically disabled household member.

. . . .

- 3. All licensed vehicles not excluded under paragraph (h)(1) of this section shall individually be evaluated for fair market value and that portion of the value which exceeds \$4,500 shall be attributed in full toward the household's resource level, regardless of any encumbrances on the vehicles. For example, a household owning an automobile with a fair market value of \$5,500 shall have \$1,000 applied toward its resource level. Any value in excess of \$4,500 shall be attributed to the household's resource level, regardless of the amount of the household's investment in the vehicle, and regardless of whether or not the vehicle is used to transport household members to and from employment. Each vehicle shall be appraised individually. The fair market value of two or more vehicles shall not be added together to reach a total fair market

value in excess of \$4,500.

. . .

F.S.M. § 273.8

The petitioner who appeared pro se² was unfortunately unable to obtain the cooperation of her household member to attempt to establish a lower value than "blue book", for his vehicle. However, the petitioner did put forth the fact that J.B. is disabled (he receives Social Security benefits) and uses the truck for his own personal transportation around town. As there is no indication that the petitioner has other transportation methods available to him, and as he can use his vehicle for any purpose under the regulations, it appears that the petitioner's evidence regarding J.B.'s ownership and use of the truck at least makes out a prima facie case that the criteria for exclusion at F.S.M. § 273.8(h)(1)(v) are met.

If the petitioner's truck is not in fact necessary to transport him or he is actually not "physically" disabled, the burden is on the Department in a benefit termination case to put forth those facts. Fair Hearing Rule No. 12. The Department has put forth no facts which would rebut the petitioner's prima facie case. It must be concluded then, that the entire value of J.B.'s truck is excluded as a resource to the petitioner's household.

FOOTNOTES

¹The petitioner owns a six year old car which is not at issue here, most likely because it was found to be worth less than \$4,500.

²The petitioner was given an opportunity to continue her case to get an attorney but she declined based on what she felt was the futility of her appeal.

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